G R S IX 5]

P

Previous references

File No 6819

1914

Serial Nos 6, 7, 8 +1

(municipal

Later references

GENERAL AND REVENUE SECRETARIA

Serial Nos 6 7, 8 +10

Part B for March 20

SUBJECT

Revision of Assessment of Octroi in the Jagalur Municipal

To The Deputy Commr Chitaldrug
No R 11826 dt 24/3/20

States that for reasons given, the Stay Order of the Deputy Commr do Continue in force permanently, but that the Municipal may distribute fresh Assessment before a magistrate

W D 1200—GPB—20.000

Pdkl 20/1920

G R S III—1] 1919

GENERAL AND REVENUE SECRETARIAT

(Mannl)

NOTES

File No 68 - 19

FILE HEADING

~~Power~~ Payment of Rewards

From

The Deputy Comr, Chitaldrug

No. Ref 195-A/C 19-20 Dated 17/1/20 Received 21/1/20

Diary No. 5272 | Enclos 1 Rep & Spare Copies | Serial No 6

BRIEF ABSTRACT OF LETTER

Reports that the Municipal Council of Jagalur ~~instead of the magistrate~~, have fined a person of Rs 50 in the Sarabanna, a cloth merchant thereof for non payment of octroi duty under sec 111 of the Rogue which appears the irregular and requests instruction regarding the correct procedure to be followed in the matter of the infliction of punishment under the provisions of sec 161

NOTES AND ORDERS

Under cl (1) of section 161 the municipal Council may only direct the prosecution but it should be before a magistrate as laid down in cl (2) thereof -

In the present instance the municipal

NOTES—First Sheet.

G. R. S. III-2]

General and Revenue Secretariat.

Serial No.

Final File No. 68 of 1917

Council have founded the offender under Sec 77 (2) - But this is in Contravention of the previous direction made in Sec 77 A (1) wherein it is distinctly laid down that the fine should be levied only on conviction before a Magistrate. It is not clear how the Hon'ble Chief Secretary in para 2 of the letter read the word conviction in the above Clause read the Board Council conclude that the offence is not triable by a magistrate below the.

Besides the procedure of the Board Council in having entered & searched the premises of the offender is defendable as such illegal as Sec 77 A (2) requires a warrant from a Magistrate for doing so. Moreover the article says the fully should have been produced before the Magistrate concerning jurisdiction within 24 hours from the time of such seizure -

vide proviso to the section

Under Cl. 3 of Sec 77 A the provisions of the Criminal Procedure Code should be applied.

In these Circumstances the case

NOTE—Contin. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

Rel File No 68 of 1919

Serial No

of any clear instructions in the matter
necessary as suggested by the Dy Com^r
but it may perhaps be expedient
to direct the Municipal Council to
refund the amount of fine now
levied from the party & then pro-
secute the offender before a
Magistrate & abide by his judgment
in this case. The prosecution can be
instituted within 6 months next after
the Commission of the offence here or
other time & institute proceedings in the matter

A copy of the Chief Court's Report
regd to be in the P. V D is also put up

L

KP
27/1/20

Mr. Clarke can be also asked in his letter
39-18 in regd to a similar instance in
the Sialkot [illegible] a proper receipt
[illegible]

Rel
28/1/19

Draft put up accordingly - But as
the Dy Com^r seeks instructions in the matter with
refce to Sec 161 some suitable reference to
this section also may perhaps be in the

KP
28/1/20

Rel
29/1

NOTE—Contn sheets

6374

G R. S. [illegible]

General and Revenue Secretariat | Rl File No. 68 of 1919

Serial No

S 823-207
10-3-1920

11) I do not quite understand the import of the Govt. Secy. note of 10 3 20. I think the position made clear in the G.O. leaves the question whether Govt. on a point of law requires alteration

Rl
13 3 20

12) I think the procedure indicated in para 10 is correct. The effect of the issue of such order is to nullify permanently the resolution & order of the Rl Council, who will then have to take proper proceedings before a magistrate in connection with the offence
) Draft G.O may be put up accdg

hm
15/3/20

13) Draft G.O submitted
KP
16/3/20) Put up fresh typed G.O as revised
Rl
16/3

hm
17 3 20

16) Typed Copy submitted
KP
19/3/20 Rec'd 19/3 Rec'd

hm
19 3 20

NOTE—Contn sheet

6316

R. S. III 2]

General and Revenue Secretariat — Jud File No 68 of 1919

Serial No	
	Draft order may be altered (2nd member) bz 19 3 20
	608/124 28-3-(5)20 bon'ble approved Rees 28 3 20 Issue [illegible] 29/3
10	In the Chittagong case R 111/24 dd 24 3 20 States that for reasons given, the 'stay' order of the Dy Court do continue in force permanently but that the usual counsel may substitute fresh proceedings before a Magistrate.

NOTE—Contn sheet

7

5-272-
21-1-20

Office of the Deputy Commissioner,
Chitaldrug District
Dated Chitaldrug, 17th January 1920

To [illegible] Esquire B.A.,
Deputy Commissioner,
CHITALDRUG.

Mr C 68-19-6

B Ramaswamaiya Esquire B A ,B L ,
Secretary to the Government of
H H the Maharaja of Mysore,
Revenue Department, Bangalore

Sir,

I have the honor to submit herewith for favor of necessary orders report No 210 dated 31st December 1919 and its enclosures received from the President of the Jagalur minor municipal council and to state that the municipal council has under section 77, clause (2) of the Municipal Regulation inflicted a fine of Rs 50 on one Sarabanna, resident of Jagalur who was found to be selling and possessing within the municipal limits of Jagalur certain cloths without payment of Octroi thereon

It is clear from 21 Mysore Chief Court report 50 (Motichand VS Government of Mysore) that section 77 clause (2) of the Municipal Regulation creates an offence triable by a Magistrate and the action taken by the municipal council to punish the offender departmentally appears to be irregular [illegible] on the words "on conviction before a Magistrate" in the succeeding section 77 A of the same Regulation seem to have led the Municipal council to conclude that the offence is one not triable by a Magistrate

As section 161 of the Municipal Regulation empowers the municipal councils to direct the prosecution of persons offending against provisions of the Municipal Regulation which can be instituted before Magistrate, I request that clear instructions for the guidance of the Municipal councils may kindly be communicated to be issued to [illegible] the principles underlying the general clauses of the

P. T. O.

WD 150—GPB—11MB—2916—6

No. 8 1919-20

From The Deputy Commissioner Chattisgarh Division

To The Secretary to Government of Revenue Department

Dated 17th

Despatched 17 January 1920

Received

General No. Re-12 195 Mal 9/17

No.

Enclosure No. One file

Submitting for orders Report No 210 dated 31 Dec and the enclosures received from the President of the Jaipur Municipal Council, connected with the question of the payment of octroi by one Sarabanna of Jaipur Town.

Sd/- K

Municipal Regulation

I have the honor to be,

S i r,

Your most obedient servant

Deputy Commissioner,

Chitaldrug District

S V

C R. S. VI G/32]

SUBJECT .....

Diary No. of letter replied to ..5722

Section rel
File No. 68—19
Serial No. 4/7

GENERAL AND REVENUE SECRETARIAT
(Rural)
, the 191

No. 295 & 1921.2.20

Date of issue... 21.2.20

To The Deputy Govt Agent Chilaw

Signed by ...

Sir

With reference to your letter no. Rev. 195 rel/19-20 of 17-1-20 regarding reporting and irregularity in connection with the collection of fees by the Puttalam Municipal Council of Rs 30 on one Saravanna, a local merchant for erection of Octroi duty on bricks taken from Puttalam to Mundel, I am directed to observe that the difference in the wording of sections 77 & 77A of the Municipal Regulation, that

5957

Ctw. 21/2

10

latter of which expressly mentions that the Conviction shall be before a magistrate while the former does not — has perhaps led the President to believe that he has jurisdiction to impose the punishment himself — But the order however, is not legal as it cannot be considered that the legislature which has clearly provided that an offending Bank under sec 77A shall be tried by a magistrate, lays down a different procedure for offences under sec. 77 Moreover any Construction of the Enactment which would have the effect of Combining the functions of the prosecution and the Judge in the same authority would not be reasonable & just and

In these Circumstances I am to request you to be so good as to exercise your powers vested under sec 17A of the Banking Regulation Act and set aside the order in question and refer the matter for the final orders of Govt.

I am, Sir,

Your obedt Servt

Office of the Deputy Commissioner,

Chitaldrug District

Dated Chitaldrug, 28th February 1919

Dis 0,63/14

~~3-2-14~~

27-2-20

G. Venkata Rao Esquire, B.A ,

Deputy Commissioner,

Chitaldrug District.

Ml 68-19 — 8

B Ramaswamaiya Esquire, B.A ,B L.,

Secretary to the Government of H. H.

the Maharaja of Mysore, Revenue Department,

B a n g a l o r e

Sir,

Adverting to your letter No R 9521/Ml 68-19-7 dated 21-2-20 requesting to exercise the powers vested in me under - section 174 of the Municipal Regulation on the reported irregularity in connection with the infliction, by the Jagalur Municipal Council, of a fine of Rs 50/- on one Sarabanna a local merchant for evasion of octroi duty and to ~~request~~ report the matter for the final orders of Government, I have the honor to forward herewith a copy of the order passed by me in the matter and communicated to the Municipal Council and to request that final orders of Government may be obtained thereon at an early date

I have the honor to be,

S I R,

Your most obedient servant,

Deputy Commissioner,

Chitaldrug District

Ref to No 68-19-8

12

Office of the Deputy Commissioner,

Chitaldrug District

Dated Chitaldrug, 24th February 1920

Read:- Report No 210 dated 31-12-19 from the President of the Jagalur minor Municipal Council stating that the Municipal Council have under section 77 clause (2) of the Municipal Regulation inflicted a fine of Rs 50/- on one Sarabamma resident of Jagalur who was found to be selling and possessing within the limits of the Jagalur Municipality certain cloths without payment of octroi thereon and submitting the records connected therewith for approval of the action of the Municipal Council

O R D E R

As section 77 clause (2) of the Municipal Regulation creates an offence punishable by a Magistrate, the infliction of the fine by the Municipal Council on Sharabamma is void and illegal Under the powers vested in the undersigned by section 174 of the Municipal Regulation it is directed that the execution of the aforesaid order passed by the Municipal Council be stayed and final orders of Government in the matter awaited

Sd/- C Venkata Rao

Deputy Commissioner,
Chitaldrug District

"C O P Y"

Deputy Commissioner,
Chitaldrug District

15

WD 161—GPO—20,000—20-12-S.

1919 - 20.

From The Defence Commissioner
Chittagong Division

To The Secretary to Government
Revenue Department

Dated 24th

Despatched 26 February 1920

Received

General No. Ref. 195 M. of 19-20 Dt.

No.

26 FEB 1920

Enclosure No. One Receipt

Submitting a copy of order passed on the reference mentioned in connection with the inflection by the Magistrate and remark for fine of Rs. 50/- on one Sharabanna for wearing protective duty and soliciting formal orders of Govt. in the matter

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Mukerji

Proceedings of the Government of
His Highness the Maharaja of M y s o r e

Read

Letter No Refce 195 Ml 19-20 dated 17th January 1920 from the Deputy Commissioner, Chitaldrug district, submitting a report from the President of the Jagalur Minor Municipal Council, stating that the said municipal council have, under clause 2 of section 77 of the Municipal Regulation, inflicted a fine of Rs 50 on one Sarabanna a resident of Jagalur, who was found to be selling and possessing within the municipal limits, certain cloth without payment of octroi duty thereon, and pointing out the irregular procedure of the unicipal Council in the matter

2 This office letter, No R 9531/Ml 68-19-7 dated 21st February 1920 requesting the Deputy Commissioner to exercise the powers vested in him under section 174 of the unicipal Regulation in connection with the aforesaid irregularity

3 Correspondence ending with letter No Refce 195 Ml/19-20 dated 24th February 1920, from the Deputy Commissioner Chitaldrug district, submitting for final orders of Govt a copy of the order passed by him and communicated to the Municipal Council of Jagalur declaring the infliction of the fine under reference to be void and illegal and directing the said unicipal council to stay the execution of their order on the subject

- 0 -

15

Certified Order No R11.124/mel 68-69—10

Dated, Bangalore 24th March 1920

The power to fine under section 77 of the Municipal Regulation is vested in the Magistrate having jurisdiction and not in the Municipal Council The order passed by the Municipal Council is therefore not legal and cannot be given effect to

Under these circumstances it is hereby directed under Section 174 (3) Municipal Regulation that the 'stay' order of the Deputy Commissioner do continue in force permanently The Municipal Council of Jagalur will be at liberty to take fresh proceedings before a Magistrate

For Revenue Secretary to Governor

Recd 22 3 20

To

The Dy Commr Chitaldrug with records received with letter dated 17th January 1920